

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REQUESTING THE FLORIDA LEAGUE OF CITIES TO REEVALUATE THEIR POLICY STATEMENT OF THE UTILITY AND TELECOMMUNICATIONS LEGISLATIVE POLICY COMMITTEE REGARDING CONTINUING MUNICIPAL AUTHORITY TO ASSESS SURCHARGES FOR UTILITY SERVICES TO ADJACENT RESIDENTIAL AND BUSINESS PROPERTIES AS PRESENTED DURING THE 1999 LEGISLATIVE SESSION.

WHEREAS, the Utility and Telecommunications Legislative Policy Committee of the Florida League of Cities has adopted a policy to support legislation that continues municipal authority to charge unwarranted surcharges for utility services outside their jurisdictions; and

WHEREAS, the Florida League of Cities supports legislation during the 1999 Legislative Session as stated in Policy 702.12 that serves to continue these surcharges; and

WHEREAS, the Town of Davie does not support the ability to charge a surcharge for the very same service based solely on municipal boundaries as placing a burden on persons having to pay the surcharge and which amounts to taxation without representation or benefit to the customer; and

WHEREAS, residents and businesses of the Town of Davie suffer from these unwarranted and burdensome charges which in no way are reflective of the cost to provide services or benefits received; and

WHEREAS, the Town of Davie supports its residents and business community in opposition to the continuance of this surcharge authority and has initiated actions seeking relief from this form of unrepresented taxation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie, Florida requests the Florida League of Cities reevaluate their previous policy statement which had encouraged the continuance of municipal authority to assess surcharges for utility services for non jurisdictional properties with a recommendation for their support of legislation

eliminating these oppressive and unwarranted surcharges.

SECTION 2. That the Town Clerk is hereby directed to provide photocopies of the Resolution to all members of the 1999 Legislative Delegation.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999.

**TOWN OF DAVIE**  
**OFFICE OF THE TOWN ADMINISTRATOR**

**MEMORANDUM**

**TO:** Bob Rawls, Interim Town Administrator  
**FROM:** Will Allen, Programs Administrator *Will Allen*  
**DATE:** March 11, 1999  
**SUBJECT:** Surcharge Resolution

Attached is a resolution requesting the Florida League of Cities to reevaluate their policy statement regarding continuing municipal authority to assess surcharges for utility services to residents and businesses outside of the municipality providing the utilities. This resolution was requested at the March 3, 1999 Town Council meeting.

## Utilities and Telecommunications

### Priority

The Florida League of Cities will support legislation that protects municipal authority to provide utility services outside incorporated boundaries and to charge a reasonable surcharge for these services.

### Public Property Management

- 700 Public rights-of-way are real property of substantial economic value and interest to local communities that are held in common and controlled by municipalities for the benefit of the public and to facilitate the movement of commerce. Municipalities are trustees of public rights-of-way and, as such, engage in a variety of activities, including granting franchises, promulgating construction standards, charging fees, levying rental charges and issuing permits. These activities are undertaken to minimize service disruptions to the public, protect public investments in the rights-of-way and assure the appropriate placement of service facilities. There should be no action by the legislature that restricts the authority of municipalities to manage this public asset and to receive fair and reasonable compensation from private users of this property.

The Florida League of Cities will support legislation that:

- 700.1 Ensures municipal government remains the principal authority without restrictions to negotiate, collect, audit and use franchise revenues at its discretion.
- 700.2 Promotes competition and efficient use of public property by ensuring that those who use the public rights-of-way pay fair value, impact costs and administrative fees to municipal governments for that use.
- 700.3 Ensures that taxpayers are not required to subsidize the use of the rights-of-way either through low rates for use, or by reducing revenues now available to municipalities.
- 700.4 Ensures municipalities are able to prevent repeated disruption of streets by establishing requirements for the placement and use of conduit and other infrastructure in public rights-of-way.

- 700.5 Ensures that municipalities may require those who wish to use the rights-of-way to show that they are qualified to do so, and ensures that municipalities are able to prevent unqualified entities from entering the rights-of-way and creating hazards to the public and to property.

- 700.6 Ensures any users of the rights-of-way may be charged fair and reasonable compensation (i.e. rent or fee) for that use, even if the user does not own those facilities located in the rights-of-way.

- 700.7 Directs that an unbiased and comprehensive study of the total life cycle costs of overhead versus underground electric utilities be undertaken.

### Telecommunications

- 701 Florida cities strongly support the development of competition in telecommunications. However, while the information superhighway presents considerable opportunities, it also presents considerable challenges for municipalities. As events unfold, it is clear that some communities may be bypassed by the telecommunications revolution and that the regulatory powers that municipalities have enjoyed may become more vulnerable. To ensure that the development of the information superhighway benefits all municipalities, steps must be taken to ensure that their role in protecting the interests and safety of their communities is not sacrificed and local control is maintained.

The Florida League of Cities will support legislation that:

- 701.1 Maintains municipal governments' bonding capacity by ensuring that the development of the information superhighway does not reduce the revenues available to municipalities, or impose new costs upon them or their citizens.
- 701.2 Includes expanded definitions of cable and telecommunications products and services to keep up with the development of technology.
- 701.3 Eliminates tax inequities by allowing similar taxation of functionally equivalent telecommunications services regardless of the service provider.
- 701.4 Ensures municipal authority to provide telecommunications services.

- 701.5 Recognizes municipal authority to impose reasonable, nondiscriminatory requirements for the provision of telecommunications services within the municipality, so long as such requirements do not conflict with the current jurisdiction of the Public Service Commission.

### Utilities: Electric, Gas, Water and Others

- 702 Much like the deregulation of the telecommunications industry in 1996, efforts are underway at the state and federal levels to allow increased competition in the electric and gas utility industries. Municipal officials recognize that market and consumer pressures exist for cost efficient utilities. They also recognize the need for safe and reliable electric and gas systems. It is paramount that restructuring the delivery of electricity and gas not interfere with municipal authority to manage public rights-of-way, administer franchise fees, collect other revenues, or become utility aggregators.

In addition, municipalities should not be restricted on the use of the funds generated from utilities, nor be preempted from establishing rates for providing such services.

The Florida League of Cities will support legislation that:

- 702.1 Repeals Section 166.231(1)(b), Florida Statutes, which exempts the fuel adjustment charge from the Public Service Tax.
- 702.2 Ensures municipal authority to levy, collect, audit and use Public Service Tax revenues at its discretion.
- 702.3 Permits imposition, audit and collection of the Public Service Tax on utility services used within a municipality, even if the utility service is purchased elsewhere.
- 702.4 Changes the Public Service Tax to a use or sales based tax.

- 702.5 Ensures the authority of municipalities to provide utility services now and into the future.
- 702.6 Protects the stranded investments of municipalities.
- 702.7 Protects municipalities from reductions of assessed value of utility property, in-lieu payments, or other revenues, as a result of electric restructuring.
- 702.8 Allows municipalities to become aggregators of services, whether individually or on a collective basis.
- 702.9 Maintains municipal authority to set rates and establish service for water, sewer, electric, gas, telecommunications or any other municipally operated utility.
- 702.10 Ensures municipal competitiveness in providing or arranging for utility services by exempting from the Public Records Law related business records.
- 702.11 Recognizes that certain public records pertaining to utility compliance audit work papers should be exempt under the Public Records Law.
- 702.12 Protects municipal authority to provide utility services outside incorporated boundaries and to charge a reasonable surcharge for these services.
- 702.13 Ensures the ability of municipalities and municipal utilities to provide a full range of services and products for customers without subjecting such activities to taxation or undue regulation.

### Universal Service

- 703 As the deployment of the information superhighway continues, municipal officials remain concerned that their citizens have universal access to affordable, basic communications services, regardless of whether they reside in urban, suburban or rural areas. Toward this end, state and local governments, businesses and citizens must all work together, as equal partners, to recognize this shared goal and to cooperatively find ways to ensure universal service is realized.